

**STATEMENT OF
STEWART BAKER
ASSISTANT SECRETARY OF POLICY
U.S. DEPARTMENT OF HOMELAND SECURITY
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
HOMELAND SECURITY SUBCOMMITTEE ON MANAGEMENT, INTEGRATION
AND OVERSIGHT
TUESDAY, NOVEMBER 15, 2005
WASHINGTON, D.C.**

INTRODUCTION

Mr. Chairman and members of the Committee: thank you for the opportunity to address you today, and for your ongoing support of the Department of Homeland Security's efforts to keep America secure. I am honored and pleased to appear before the House Homeland Security Committee, Subcommittee on Management, Integration and Oversight for the first time in my capacity as the Assistant Secretary for Policy at the Department of Homeland Security. I am pleased to have this opportunity to discuss the vital issues of border security, interior enforcement and immigration reform in the context of the Department's management challenges as a whole. I appreciate this Subcommittee's work with the Department in this area. It is critical to the Department that we work hand-in-hand with you to ensure that we are effectively managing our border and interior enforcement efforts.

SECOND STAGE REVIEW

Considerable work has been done since 9/11 to enhance border security. We have significantly increased the number of agents and officers securing our borders and ports of entry, strengthened and consolidated inspections, expanded the terrorist watch list, created new screening and credentialing tools, and increased our enforcement capabilities. But much remains to be done. Illegal immigration undermines our national security. And illegal immigration imposes particular public safety and economic strains on our communities.

Secretary Chertoff studied these critical issues carefully in his Second Stage Review of the Department. He looked, in particular, at proposals to enhance coordination between Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). After careful study, he decided that the best course was not to merge ICE and CBP, as some had suggested, but to propose a new management structure intended to reduce bureaucracy, improve accountability, and enhance coordination. In addition to making ICE and CBP direct reports to the Secretary and eliminating the Border and Transportation Security Directorate, the Secretary stood-up a Department-wide Policy office, Operations office, and Intelligence office to ensure that the Department and its components are mission-focused and effectively leveraging tools from across the DHS spectrum. Among other things, it was the Secretary's belief that a merger would diminish, rather than enhance, the roles of the Assistant Secretary of ICE and the Commissioner of CBP by, in effect, relegating them to the Deputy Assistant Secretary level. It would thus merely recreate a new bureaucratic reporting mechanism that has already been harshly criticized.

The Secretary also concluded that we must think innovatively and undertake a new way of doing business in the border security realm. Thus, the first major initiative that he launched following his Second Stage Review, in addition to the new management structure, was the stand-up of the Secure Border Initiative or SBI. The Secretary put together a team of experts, from CBP, ICE, CIS, U.S. Coast Guard, our Intelligence Office, Management Directorate, and others, to focus on all aspects of the border security problem—deterrence, detection, apprehension, detention, and removal. This initiative is intended to provide a mechanism to meet the challenges in each of these areas with an integrated mix of increased staffing, more robust interior enforcement, greater investment in detection technology and infrastructure, and enhanced coordination on the federal, state, local, and international levels. As discussed below, we are taking other important steps to enhance coordination between ICE and CBP.

I speak for the Secretary when I say that greater focus at the Department level – which we are undertaking -- and innovative and integrated thinking are a far better solution to securing the border than imposing a massive reorganization through a merger of CBP and ICE. Indeed, our grave concern is that a merger would have precisely the opposite effect. The time and attention that it would take to restructure these two organizations under one figurative head would divert critical resources away from where our focus must be – securing the border. Indeed, it would yield a protracted period (at a minimum six months to a year) of mission confusion and organization churn, thus undermining the operational effectiveness of CBP, ICE, and, frankly, the Department at large.

As you all know well, much effort has gone over the past several years toward standing up these two agencies, which have unique and complementary missions. It was no easy task to merge the personnel, resources, authorities, systems, and cultures of some 22-government agencies to form the Department of Homeland Security. Forcing the 55,000 plus employees in these two components to go through yet another major structural change under one behemoth agency within the Department would be a significant setback. These two organizations are in the midst of developing a culture, infrastructure, lines of communication, and chain of command and policies. Upheaval created by the implementation of a new organization would likely draw further confusion as to roles and responsibilities and result in employee demoralization. Employees would once again need to cope with mission confusion, uncertainty of reporting and supervisory structures, among other concerns. We could expect many employees would be frustrated by the need to go through yet another massive change and many may leave altogether.

The challenges that confront us along our Nation's borders are substantial. But simply realigning the organizational boxes does not resolve the complex challenges presented in the dynamically evolving and resource-constrained environment in which we operate.

INSPECTOR GENERAL'S REPORT

I appreciate the careful study that the Inspector General's Office undertook when considering the value of merging ICE and CBP. The Inspector General's Office interviewed many ICE and CBP officials and employees in the field and we found much that was of value in that report. In particular, the report identified considerable morale problems, making it abundantly clear that many employees have struggled with the costs inherent in transition. ICE employees, in particular, also felt the strain associated with the agency's financial shortfalls. As you will see from the Department's written response to the report, however, we disagree with the ultimate conclusions drawn from these interviews. To that end, we are concerned that the IG did not sufficiently corroborate or validate the misperceptions inherent in many of the personal

testimonials. To be sure, employee concerns suggest that there is an exigency in improving culture and morale, but they do not justify a massive organizational change. We note that, in addition to the transitional problems inherent in any reorganization, ICE employees, in particular, were operating under budgetary constraints that the Department and Congress have worked to resolve. But we are concerned that the report focused too heavily on anecdotal evidence and not enough on empirical data that documents systemic coordination. While anecdotal interviews can and do provide valuable insight, we do not agree that they should serve as the impetus for a massive organizational change.

The report also fails to take into account that these two organizations are still in their early stages, having just gone through major transformations. As a result, it is far too early to tell whether the 2003 reorganization is successful. To that end, the report barely touches upon whether problems that existed prior to the reorganization, following passage of the Homeland Security Act, have now been resolved. Nor did the report take a serious look at whether some of the identified problems are in fact “legacy” problems. And there is little discussion of the costs associated with a merger.

Let me be clear that I have not come here today to say that creating ICE and CBP out of the old immigration and customs organizations was cost-free or problem-free. All government reorganizations have costs as well as benefits, and the transition is never easy. It always takes time to find and solve the problems that arise from reorganization. Indeed, these are the growing pains inherent in any reorganization, especially when employees must adjust to new missions, financial systems, and management structures.

The report, however, did not address any of the positive steps these agencies have taken in the initial two years towards the integration of complex legacy authorities and diverse cultures both within the organizations and with each other. As part of the initial transition planning, noted but dismissed by the Inspector General in the report, existing policies and procedures were developed to provide a fully integrated, comprehensive immigration and customs cooperative process for the legacy Customs and former INS field managers. Both ICE and CBP developed organizational templates, which met the new DHS mission requirements. Subsequently, each organization highlighted problems for resolution and have worked towards enhancing coordination to address identified problems. Coordination issues continued to be worked through joint groups throughout the Department and within ICE and CBP. Coordination has improved simply by virtue of the fact that a number of offices that were previously housed in several different Departments are now under one umbrella. But, as we have documented in greater detail in our response to the report, significant steps have been taken to enhance coordination in all three areas that the Inspector General focused on: (1) Apprehension and Detention and Removal Operations; (2) Investigative Operations; and (3) Intelligence Activities. We invite you to study our response.

ENHANCED COORDINATION

While the Inspector General ultimately recommended merging the two agencies, he also included a series of valuable recommendations short of merger to address the coordination problems that he identified. We have studied carefully the report’s recommendations and have already implemented some of these changes.

We agree with the Inspector General that the key to excellent performance lies in integrating the components through working level communication, enhanced coordination, and

unified management from Department leadership on down. As I already mentioned above, we have begun to do precisely that.

First, as I noted above, we have created the **SBI Program Office**, which will report to the Secretary through the Policy Office. I am committed to overseeing this office closely and will ensure that it continues to receive the full attention of the highest levels of the Department. Under the Program Manager's office, we are integrating experts and resources from across the Department, including CBP, ICE, CIS, U.S. Coast Guard, and Intelligence, into our planning and execution. We are incorporating metrics and measurement into the SBI program plan. SBI will work in unity of command and purpose within the Department to systemically evaluate and resolve the problems along our Nation's borders.

The overall vision for the SBI includes:

- More agents to patrol our borders, secure our ports of entry and enforce immigration laws;
- Expanded detention and removal capabilities to eliminate "catch and release" situations once and for all;
- A comprehensive and systemic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of UAVs, and next-generation detection technology;
- Increased investment in infrastructure improvements at the border – providing additional physical security to sharply reduce illegal border crossings; and
- Greatly increased interior enforcement of our immigration laws – including more robust worksite enforcement and increased compliance with visa requirements.

In addition to SBI, we are undertaking a number of other steps to improve coordination, including:

- **Integration and alignment of priorities.** Both the Department-wide Policy office and Director of Operations Coordination will play a major role in integrating policy and operations of all the DHS operational agencies, including CBP and ICE. In coordination with CBP and ICE, they will also align Departmental priorities.
- **Performance tracking and interagency reviews.** The Office of Policy will monitor the implementation of these priorities through performance tracking and periodic interagency reviews, including assessments of related resource deployments.
- **Intelligence Fusion and Department-wide Intelligence Products.** Similarly, understanding the enemy's intent and capabilities affects how we operate at our borders. The Office of Intelligence and Analysis will take the lead in ensuring that we are operating under a common picture across the Department, thereby addressing the IG's concern for greater coordination in this area. In addition to the joint efforts that are already underway between these two agencies with respect to intelligence and information-sharing, the Department's new Chief of Intelligence will fuse information from all DHS components, including ICE and CBP. This organizational change within the Department will increase information sharing between components, but will also develop intelligence products that incorporate all-source information from across DHS.

Over the last month, a working group within the Department established protocols and mechanisms to provide analysts from the Office of Intelligence and Analysis with much-improved access to key ICE and CBP databases, providing the Office of Intelligence and Analysis with a far better capacity to conduct patterns and trends analysis in this area. Plans are also underway to improve our Reports Officers program and the Department is making significant improvements in the number and quality of Intelligence Information Reports that it produces.

- **Performance Metrics.** The Department will develop performance metrics for internal CBP and ICE operations, and metrics for gauging the extent of interaction and coordination between CBP and ICE.
- **Budget Coordination.** Starting with the 2007 President's Budget request, the Department CFO has established a more formal process to ensure greater visibility and coordination between CBP and ICE for budget formulation and strategic planning processes. This will ensure a more consistent and proper balance of border/apprehension assets within CBP with interior enforcement/removal assets in ICE. In addition, the Chief Financial Officer will track budget execution to guarantee compliance with agreed-to budget and plans.
- **Joint CBP-ICE working groups.** A joint CBP-ICE working group will oversee the implementation of interagency coordination efforts and Memoranda of Understanding. The working group will be responsible for dispute resolution, responding to requests that deviate from plans, making adjustments, providing clarification, and resolving different interpretations of related guidance.

These enhancements will ensure that we are carefully monitoring, measuring, and implementing mechanisms to enhance coordination. At the same time, ICE and CBP have been working steadily to build a better relationship. Both ICE and CBP have increased productivity in virtually every facet of their law enforcement activities, in many cases breaking annual enforcement records. Collectively, they have generated many cooperative successes in the last two years, such as Operation ICE Storm, Operation Texas Hold 'Em, the ABC Initiative, the LAX Initiative, and the Expedited Removal Working Group. Indeed, it should be noted that the IG specifically pointed out in his report that he was not aware of many of the coordination efforts underway within the Department when he conducted his review.

At the same time, the decision not to merge these agencies also rests with an important truth about their work. While the core missions of ICE and CBP, interior enforcement and interdiction respectively, are closely related, they are not identical. ICE's Operation Predator and the enforcement of child exploitation laws and ICE's Violent Gang Initiative, Community Shield, are two such examples. Critical interior enforcement elements could suffer mission degradation if the two agencies were merged into a massive 55,000-employee agency with a more diverse focus.

In addition, CBP has made great strides in its own merger at integrating its inspectional workforce, aspiring towards One Face at the Border. More than 37 cross training modules have been built and will be implemented in the field by December 31, 2005. These modules will not only cross train the existing personnel who were on-board at the time of the merger, but are also the key components in the 2-year On-the-job-training for all new CBP Officers. To date, students filling more than 112,660 training slots have passed through these courses. In the past year alone, more than 7,300 CBP Officers and Agriculture Specialists have taken the Anti-

Terrorism courses and more than 13,150 employees have taken the fraudulent document detection courses.

ICE, overcoming enormous challenges to fulfill its mission, has accomplished much in the last two years. As the second largest federal contributor of agents to the Joint Terrorism Task Force, ICE has increased the number of ICE cases by 500 percent. In Worksite Enforcement, ICE targeted critical infrastructure worksites including airports in Operation Tarmac that resulted in the arrest of more than 1,190 unauthorized alien workers with 782 criminal indictments and nuclear power plants in Operation Glow Worm which resulted in the audit of 63,835 employee records. Fighting identity and benefits fraud, in fiscal year 2005, ICE conducted 3,591 investigations, leading to 875 criminal indictments. Investigating arms and strategic technology violations, ICE has initiated 5,670 investigations into illegal exports and has netted 431 arrests, 305 indictments and 282 convictions since the formation of the agency. In the detention and removal operations of undocumented aliens ICE reduced the average detention period for “other than Mexican” aliens that are detained. Using new strategies that blend immigration and customs authority ICE increased by more than 30 percent its human trafficking and smuggling investigations, and increased the assets seized to roughly \$27 million in FY 2005.

Additionally, in FY 2005, CBP cleared 86 million arriving air passengers from abroad. This is the largest number of air passengers traveling to the United States in history, and also marks the first year that the number of air passengers surpassed pre-9/11 levels. In FY 2005 CBP officers at ports of entry arrested more than 7,600 persons on outstanding state or federal warrants, more than a 40 percent increase over FY 2003. Over the last two years, CBP did its part to combat identity and document fraud through the successful implementation of the Machine Readable Passport and Digital Photograph requirements for travelers from Visa Waiver countries. In addition, CBP intercepted more than 75,000 fraudulent documents in each FY 2004 and FY 2005 and intercepted and denied entry to almost 500 persons last year who presented a terrorism or national security threat, more than a 20% increase over FY 04. Between our ports of entry, the CBP Border Patrol again apprehended more than 1.1 million individuals attempting to illegally enter the United States, and the CBP P-3s based in Jacksonville, Florida and Corpus Christi, Texas contributed to the seizure of over 210,779 pounds (105 tons) of illegal drugs – over 38,600 more pounds (19 tons) than last year.

This is an impressive list of accomplishments, especially when viewed in light of the fact that at the time of the OIG’s investigation, ICE was laboring under a severe budget shortfall that hampered its daily operations. In addition, CBP was heavily involved in the continued integration of its inspectional workforce and the Air and Marine Operations program. ICE’s financial crisis seriously constrained hiring and operational flexibility, resulting in a morale-draining imposition of travel restrictions, compensation restrictions and other meaningful belt-tightening. Given these constraints, it is no surprise that the report revealed serious morale problems. In July 2005, Congress provided ICE with a funding supplemental of \$369 million. This Congressional appropriation will ensure that the agency functions much more effectively and that its employees thrive in their key enforcement mission.

The Department is grateful to this Subcommittee for its attention and support during the first years of our formation. We look forward to working hand-in-hand with this Subcommittee as we develop new technologies, enhance methodologies, and, critically, measure whether what we are doing is achieving real results. Conscious of our obligations to protect the Nation through effective border control we have deeply studied our enforcement challenges and whether we were meeting them in the most effective manner possible. Through the Second Stage Review

and the proposed changes I have discussed with you today, I believe the Department has provided a roadmap for change and improvement in its performance, accountability, coordination, and management of personnel and duties.

The Department is fully committed to meeting the many challenges that any recently created organization faces and we believe we have made significant inroads in confronting the change needed to be more effective for the American people. Thank you once again for the opportunity to discuss these issues with you, and I look forward to answering your questions.